

## **IC 15-3-3.5**

### **Chapter 3.5. Pesticides**

#### **IC 15-3-3.5-1**

##### **Enforcing official**

Sec. 1. (Enforcing Official) This chapter shall be administered by the state chemist of the State of Indiana who shall hereinafter be referred to as the "state chemist".

*(Formerly: Acts 1971, P.L.199, SEC.1.)*

#### **IC 15-3-3.5-2**

##### **Definitions**

Sec. 2. As used in this chapter, unless otherwise provided:

(1) The term "active ingredient" means:

(A) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;

(B) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce of ornamental or crop plants;

(C) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; and

(D) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue.

(2) The term "adulterated" means a pesticide that has its strength or purity fall below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide product or if any valuable constituent of the pesticide product has been wholly or in part abstracted.

(3) The term "antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(4) The term "board" means the Indiana pesticide review board created by this chapter to collect, analyze, and interpret information on matters relating to the use of pesticides.

(5) The term "defoliant" means any substance or mixture of substances intended to cause leaves or foliage to drop from a plant with or without causing abscission.

(6) The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(7) The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or other pests as may be designated by the board. The term does not include:

(A) equipment used for the application of pesticides when

sold separately from the pesticides;

(B) firearms; or

(C) simple mechanical devices, such as barriers, traps, or adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.

(8) The term "distribute" means to offer for sale, sell, exchange, barter or otherwise supply or offer to supply pesticide products.

(9) The term "fungi" means all non-chlorophyll-bearing thallophytes (all non-chlorophyll-bearing plants of a lower order than mosses and liverworts), including rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other animals.

(10) The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

(11) The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

(12) The term "highly volatile herbicide" means those herbicides that the board has determined to be capable of emitting vapors that may cause serious injury to desired plants by reason of movement of the vapors from the area of application of the herbicide to areas inhabited by the desired plants.

(13) The term "inert ingredient" means an ingredient that is not an active ingredient.

(14) The term "ingredient statement" means either:

(A) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; or

(B) a statement of the name of each active ingredient in decreasing order of abundance and the total percentage of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide, except clause (A) shall apply if the preparation is highly toxic to man, determined under section 10 of this chapter; and

in addition to clause (A) and clause (B), if a pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(15) The term "insect" means any small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six (6) legged, usually winged forms, including beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

(16) The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects that may be present in any environment.

(17) The term "label" means the written, printed, or graphic matter on, or attached to, a pesticide product or the immediate container of the pesticide product, and any outside container or wrapper of the retail package of the pesticide product.

(18) The term "labeling" means all labels and other written, printed, or graphic matter:

(A) upon the pesticide product or any of its containers or wrappers;

(B) accompanying the pesticide product at any time; or

(C) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of the United States Departments of Agriculture or Interior, the United States Public Health Service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(19) The term "misbranded" means:

(A) any pesticide product if its labeling bears any statement, design, or graphic representation relative to the pesticide product or to its ingredients that is false or misleading;

(B) any pesticide product:

(i) if it is an imitation of or is offered for sale under the name of another pesticide product;

(ii) if its labeling bears any reference to registration under this chapter;

(iii) if the labeling accompanying it does not contain instructions for use that are necessary and, if complied with, adequate for the protection of the public;

(iv) if the label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;

(v) if the label does not bear an ingredient statement on that part of the immediate container and on any outside container or wrapper through which the ingredient statement on the immediate container cannot be clearly read, of the retail package that is presented or displayed under customary conditions of purchase. However, a pesticide product is not misbranded under this definition if the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase and the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapping, or labeling, as permitted by the state chemist;

(vi) if any word, statement, or other information required

under this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) to appear on the labeling is not prominently placed on the labeling with conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms as to render it likely to be read and understood by the average individual under customary conditions of purchase and use;

(vii) if in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;

(viii) in the case of a plant regulator, defoliant, or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying the pesticide. However, physical or physiological effects on plants or parts of plants shall not be deemed to be injurious, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations; or

(ix) if the immediate container does not clearly display the United States Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.

(20) The term "nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.

(21) The term "nematode" means the invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts also called nemas or eelworms.

(22) The term "person" means any individual, partnership, association, fiduciary, corporation, or organized group of persons whether incorporated or not.

(23) The term "pesticide" means:

(A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating a pest; and

(B) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(24) The term "pesticides for use by prescription only" means any pesticide that the board has found to be more hazardous by one (1) criterion or another than a restricted use pesticide so that any specific use and application shall be determined and prescribed by a qualified pest management specialist approved by the state chemist.

(25) The term "plant regulator" means any substance or mixture

of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce of ornamental or crop plants, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(26) The term "registrant" means the person registering any pesticide product under this chapter.

(27) The term "restricted use pesticide" means any pesticide classified as a restricted use pesticide by the administrator of the United States Environmental Protection Agency or a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands, other than the pests it is intended to prevent, destroy, control, or mitigate.

(28) The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal that the board shall declare to be a pest.

(29) The term "weed" means any plant that grows where the plant is not wanted.

(30) The term "aquatic ecologist" means a scientist with a degree in, or extensive training in, or experience in at least one

(1) of the following:

(A) Aquatic ecology.

(B) Limnology.

(C) Invertebrate zoology.

(D) Invertebrate ecology.

(E) Ichthyology.

(F) Aquatic botany.

(G) Algology.

(H) Primary production ecology.

(31) The term "terrestrial ecologist" means a scientist with a degree in, or extensive training in, or experience in at least one

(1) of the following:

(A) Animal ecology.

(B) Plant ecology.

(C) Vertebrate natural history.

(D) Herpetology.

(E) Ornithology.

(F) Mammalogy.

(G) Field zoology.

(32) The term "bulk pesticides" means any pesticide or mixture of pesticides that is transported or held in an immediate reusable container in undivided quantities greater than one hundred (100) pounds net dry weight or fifty-five (55) U.S. gallons liquid measure. The term does not include pesticides that are in the custody of the ultimate user and have been prepared for application by the ultimate user to use in dilution formula strength.

(33) "Final printed labeling" means the printed label and other labeling that will appear on or accompany a pesticide product.

(34) "Front panel" means the part of a label that is visible to a purchaser under normal conditions of sales displays.

(35) "Immediate container" means that part of a container that is in direct contact with a pesticide product.

(36) "Pest" has the meaning set forth in IC 15-3-3.6-2(22).

(37) "Pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

(38) "Pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

(39) "Produce" means to manufacture, prepare, compound, process, or change the container of a pesticide product or an active ingredient. The term does not include the dilution by individuals of formulated pesticides for the individual's use done according to the directions on a label.

(40) "Wildlife" has the meaning set forth in IC 15-3-3.6-2(29).

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1979, P.L.144, SEC.1; P.L.113-1990, SEC.1; P.L.97-1992, SEC.1; P.L.140-1996, SEC.1.*

### **IC 15-3-3.5-2.3**

#### **Pesticide products; multiple product name and labeling**

Sec. 2.3. For more than one (1) pesticide product to be considered the same pesticide product, each pesticide product must exhibit the same:

- (1) product name;
- (2) registrant name;
- (3) United States Environmental Protection Agency registration number; and
- (4) labeling.

*As added by P.L.113-1990, SEC.2.*

### **IC 15-3-3.5-3**

#### **Prohibited acts; production, distribution, display, and sale**

Sec. 3. It is unlawful for any person to produce, distribute, display, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

- (1) Any pesticide product that has not been registered under section 5 of this chapter.
- (2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.
- (3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of

the product.

(4) Any pesticide (except a bulk pesticide or a pesticide in a container designed and constructed to accommodate the return and refill of greater than fifty-five (55) gallons liquid or one hundred (100) pounds of dry material) unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;

(B) the name, brand, or trademark under which the pesticide product is sold; and

(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

(5) The pesticides commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by rules adopted under this chapter, or any other white powder pesticide that the state chemist, after investigation of and after public hearing on the necessity for action for the protection of the public health and the feasibility of coloration or discoloration, shall, by rule, require to be distinctly colored or discolored unless it has been so colored or discolored. The state chemist may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the state chemist determines that coloring or discoloring is not necessary for the protection of the public health.

(6) Any pesticide product that is adulterated or misbranded.

(7) Any pesticide in containers violating rules adopted under section 10(3) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.

(8) A highly volatile herbicide (as defined in section 2(12) of this chapter) except on written permission by the state chemist.

(9) Any bulk pesticide unless it is accompanied in all transfers of custody or ownership by or held in storage vessels to which is affixed a label bearing the information specified in subdivision (4).

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1979, P.L.144, SEC.2; P.L.113-1990, SEC.3; P.L.97-1992, SEC.2.*

#### **IC 15-3-3.5-4**

##### **Prohibited acts; use**

Sec. 4. It shall be unlawful:

(1) for any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this chapter or

rules adopted under this chapter, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter;

(2) for any person to use for the person's own advantage or to reveal, other than to the state chemist or proper officials or employees of the state or to the courts of this state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 5 or 7 of this chapter;

(3) for any person to use or cause to be used any pesticide contrary to section 10 of this chapter; or

(4) for any person to use a highly volatile herbicide (as defined in section 2(12) of this chapter) except on written permission by the state chemist.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.4.*

#### **IC 15-3-3.5-5**

##### **Registration; product**

Sec. 5. Each pesticide product that is produced, distributed, sold, displayed, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered in the office of the state chemist. The application for registration shall be made on a form provided by the state chemist that includes the following information:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if a person other than the applicant.

(2) The complete brand name of the pesticide.

(3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it including directions for use.

(4) If requested by the state chemist, a full description of the tests made and the results of the tests upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last reregistered.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.5.*

#### **IC 15-3-3.5-6**

##### **Registration; fees**

Sec. 6. (a) For the purpose of defraying expenses connected with the enforcement of this chapter, each registrant shall pay an annual fee of seventy-five dollars (\$75) for each pesticide product registered. Each registration shall expire January 1 of each year. All fees collected by the state chemist under this chapter shall be paid to



the treasurer of Purdue University by whom they shall be deposited in a special restricted account so designated by the treasurer of the board of trustees of Purdue University. From this account the treasurer shall pay all expenses incurred in carrying out this chapter including:

- (1) employment of inspectors, investigators, researchers, analysts, administrators, and clerical and service staff;
- (2) expenses in procuring samples and printing results of inspection;
- (3) purchasing supplies, equipment, and services;
- (4) necessary remodeling; and
- (5) other expenses of the office of the state chemist.

The treasurer is not required to use any other funds, except those collected as registration fees, to pay any expenses incurred in the administration of this chapter. The dean of agriculture shall make an annual financial report to the governor showing total receipts and expenditures of all fees received under this chapter.

(b) A registrant that registers or pays an annual fee after December 31 of any year shall pay a late fee of seventy-five dollars (\$75) as well as the annual fee.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1979, P.L.144, SEC.3; P.L.113-1990, SEC.6; P.L.40-1993, SEC.8.*

#### **IC 15-3-3.5-7**

##### **Registration; acceptance, refusal, suspension, or cancellation**

Sec. 7. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the confidential statement of formula, analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media, and analytical standards of the pesticide product. In the case of a federally registered product, this requirement may be waived.

(b) If the state chemist determines that the composition of the pesticide product is such as to warrant the proposed claims for it and if the pesticide product and its labeling and other material required to be submitted comply with the requirements of section 5 of this chapter, the state chemist shall register the pesticide product.

(c) If it does not appear to the state chemist that the pesticide product is such as to warrant the proposed claims for it or if the pesticide product and its labeling and other material required to be submitted do not comply with this chapter, the state chemist shall notify the applicant of the manner in which the pesticide product, labeling, or other material required to be submitted fail to comply with the law so as to afford the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

(d) The state chemist, in accordance with the procedures specified in this section, may suspend or cancel the registration of a pesticide whenever the state chemist determines that the pesticide product or

its labeling does not comply with this chapter.

(e) Whenever an application for registration is refused or the state chemist proposes to suspend or cancel a registration, notice of such action shall be given to the applicant or registrant who shall have fifteen (15) days from the date of such notice to request a hearing on the proposed action in accordance with IC 4-21.5.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.7-1987, SEC.64; P.L.113-1990, SEC.7.*

### **IC 15-3-3.5-8 Repealed**

*(Repealed by P.L.113-1990, SEC.56.)*

### **IC 15-3-3.5-9**

#### **Determinations**

Sec. 9. (Determinations) (a) The Board is authorized, after due notice and public hearing as provided in IC 4-22-2, to declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances.

(b) Whenever a hearing is provided for or authorized to be held by the board, the board may designate a person or persons as its agent or representative to conduct such hearings.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1979, P.L.144, SEC.4.*

### **IC 15-3-3.5-10**

#### **Restricted use of pesticides**

Sec. 10. (a) The board may, under IC 4-22-2, do the following:

(1) By rule, adopt a list of "restricted use pesticides" and "pesticides for use by prescription only" for the state or for designated areas within the state if it finds that the characteristics of the pesticides require that rules restricting their sale, distribution, or use by any person are necessary to prevent undue hazards to persons, animals, wildlife, lands, or waters other than the pests that they are intended to prevent, destroy, control, or mitigate. The board may include in the rule the time and conditions of sale, distribution, or use of such "restricted use pesticides" and "pesticides for use by prescription only" and may, if it deems it necessary to carry out this chapter, require that any or all materials shall be purchased, possessed, or used only under permit, certificate, license, or registration of the state chemist or under certain conditions or in certain quantities or concentrations. The state chemist may require all persons issued permits, certificates, licenses, or registrations to maintain records as to the use of the "restricted use pesticides" and "pesticides for use by prescription only".

(2) Adopt rules providing for the safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers.

(3) Adopt rules restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These

restrictions may apply to type of construction, strength, or size to alleviate danger of spillage, breakage, or misuse.

(b) The board may adopt by reference the restricted use classification of a pesticide that is maintained by the United States Environmental Protection Agency.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.183-1983, SEC.66; P.L.113-1990, SEC.8.*

### **IC 15-3-3.5-11**

#### **Rules and regulations**

Sec. 11. The state chemist may, under IC 4-22-2, adopt appropriate rules for carrying out this chapter, including but not limited to rules providing for the following:

- (1) The collection and examination of samples of pesticide products.
- (2) Determining whether a pesticide product is highly toxic to man or wildlife.
- (3) The issuance of permits to purchase, possess, or use "restricted use pesticides" and "pesticides for use by prescription only".
- (4) Determining standards of coloring or discoloring for pesticide products and to subject pesticide products to the requirements of section 3 of this chapter.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.183-1983, SEC.67; P.L.113-1990, SEC.9.*

### **IC 15-3-3.5-12**

#### **Pesticide review board**

Sec. 12. (a) There is created the Indiana pesticide review board consisting of the following members:

- (1) One (1) representative of the state department of health.
- (2) One (1) representative of the state toxicologist.
- (3) One (1) representative of the state veterinarian.
- (4) One (1) representative of the department of natural resources.
- (5) One (1) representative of the department of environmental management.
- (6) One (1) representative of the Purdue University office of agricultural research programs.
- (7) One (1) representative of the Purdue University cooperative extension service.
- (8) Two (2) ecologists with earned doctorate degrees:
  - (A) one (1) a terrestrial ecologist; and
  - (B) one (1) an aquatic ecologist.

No more than one (1) ecologist may be from a state supported university or college and no more than one (1) ecologist may be a plant ecologist.

- (9) One (1) public representative.
- (10) One (1) representative of the pesticide industry.
- (11) Two (2) representatives of producers of agricultural crops

or products on which pesticides are applied or that may be affected by the application of pesticides:

(A) one (1) of whom represents producers of agronomic crops; and

(B) one (1) of whom represents producers of nonagronomic crops.

(12) One (1) public representative from conservation organizations.

(13) Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.

(14) Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under IC 15-3-3.6-5.

(15) The state chemist, who shall serve as a nonvoting member.

(16) The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.

(17) The pesticide training coordinator, who shall serve as a nonvoting member.

(b) The voting members shall be appointed by the governor for terms of four (4) years. Appointments shall be made so that no more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1979, P.L.144, SEC.5; P.L.41-1989, SEC.6; P.L.113-1990, SEC.10; P.L.2-1992, SEC.210; P.L.40-1993, SEC.9.*

### **IC 15-3-3.5-13**

#### **Board; vacancies**

Sec. 13. (Board: Vacancies) Vacancies on the Board created by death, resignation, or removal for cause of any member shall be filled by the Governor within thirty days after occurrence for the remainder of the vacated term in the manner herein prescribed for appointment to the Board.

*(Formerly: Acts 1971, P.L.199, SEC.1.)*

### **IC 15-3-3.5-14**

#### **Board; chairman**

Sec. 14. (Board: Chairman) The Board shall elect one of its members Chairman to serve for a term of two years, unless his appointment should terminate before the expiration of said term, in which case the term shall be for the duration of his appointment.

*(Formerly: Acts 1971, P.L.199, SEC.1.)*

### **IC 15-3-3.5-15**

**Board; meetings**

Sec. 15. (Board: Meetings) The Board shall meet at least annually and at such other times and at such place as shall be specified by the call of the Chairman or a majority of the Board.

*(Formerly: Acts 1971, P.L.199, SEC.1.)*

**IC 15-3-3.5-16****Board; quorum**

Sec. 16. Ten (10) members of the board shall constitute a quorum and official actions will be subject to approval by a simple majority of board members present at a called meeting. The chairman shall actively participate in all decisions of the board.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1979, P.L.144, SEC.6; P.L.113-1990, SEC.11.*

**IC 15-3-3.5-17****Board; per diem and travel expenses**

Sec. 17. State officials and staff members of state offices as well as Purdue University office of agricultural research programs and cooperative extension service staff members appointed to the board shall serve without compensation but shall be entitled to receive per diem payments at rates and under conditions incident to these positions. Other members are entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures, established by the Indiana department of administration and approved by the budget agency.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1979, P.L.144, SEC.7; P.L.40-1993, SEC.10.*

**IC 15-3-3.5-18****Inspection**

Sec. 18. The state chemist, individually, or through the state chemist's agent, may do the following:

(1) Enter any public or private premises, including any vehicle of transport during regular business hours in order to have access to, and to obtain samples of, pesticide products and examine and copy records relating to their transportation and sale, subject to this chapter and the rules adopted under this chapter.

(2) Enter at all reasonable times in or upon any private or public property for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.12.*

**IC 15-3-3.5-18.1****Distribution of unregistered, adulterated, or misbranded pesticide product**

Sec. 18.1. A person may not distribute:

- (1) an unregistered pesticide product;
- (2) an adulterated pesticide product; or
- (3) a misbranded pesticide product.

*As added by P.L.113-1990, SEC.13. Amended by P.L.1-1991, SEC.119.*

### **IC 15-3-3.5-18.3**

#### **Violations; civil penalties**

Sec. 18.3. (a) Subject to this section, if a person violates this chapter or a rule adopted under this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the person or:

- (1) deny;
- (2) suspend;
- (3) revoke; or
- (4) amend;

the person's registration under this chapter.

(b) The state chemist may impose civil penalties only in accordance with the schedule of civil penalties adopted by the board. The board shall establish a schedule of the civil penalties that may be imposed under subsection (a) by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds the following:

- (1) Two hundred fifty dollars (\$250) for a person's first violation.
- (2) Five hundred dollars (\$500) for a person's second violation.
- (3) One thousand dollars (\$1,000) for a person's third violation and each subsequent violation.

(c) The state chemist may impose a civil penalty for a person's first violation only after the board has approved the imposition of the civil penalty.

(d) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

(e) A proceeding under IC 4-21.5-3 that involves the imposition of a civil penalty may be consolidated with any other proceeding commenced under IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

(f) Money collected for civil penalties imposed under this section shall be credited to the agricultural extension service. The money may be used only for the purpose of providing education about pesticides.

*As added by P.L.113-1990, SEC.14.*

### **IC 15-3-3.5-19**

#### **Penalties; administration**

Sec. 19. The examination of pesticide products shall be made under the direction of the state chemist for the purpose of determining whether the pesticide products comply with the requirements of this chapter. If it appears after an examination that a pesticide product fails to comply with this chapter, and the state

chemist contemplates instituting proceedings against any person, the state chemist shall cause appropriate notice to be given to the person. Any person notified shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings and, if in the opinion of the state chemist it shall appear that this chapter has been violated by the person, then the state chemist shall refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product. Nothing in this chapter may be construed as requiring the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.  
*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.15.*

#### **IC 15-3-3.5-20**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.1549.)*

#### **IC 15-3-3.5-21**

##### **Violations; misdemeanor**

Sec. 21. A person who violates this chapter or impedes, hinders, or prevents the state chemist or the state chemist's authorized agent in performance of the state chemist's duty in connection with this chapter commits a Class C misdemeanor except as provided in section 22 of this chapter.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1978, P.L.2, SEC.1515; P.L.113-1990, SEC.16.*

#### **IC 15-3-3.5-22**

##### **Fraudulent use or disclosure of formula information**

Sec. 22. A person who, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of section 7 of this chapter commits a Class A misdemeanor.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1978, P.L.2, SEC.1516.*

#### **IC 15-3-3.5-22.1**

##### **Confidential information**

Sec. 22.1. The state chemist may, by rule, declare that information required under this chapter is confidential.

*As added by P.L.113-1990, SEC.17.*

#### **IC 15-3-3.5-23**

##### **Injunctive relief**

Sec. 23. (Injunctive Relief) The state chemist is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation

promulgated under the chapter notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

*(Formerly: Acts 1971, P.L.199, SEC.1.)*

#### **IC 15-3-3.5-24**

##### **Publication**

Sec. 24. (Publication) The state chemist shall, by publication in such manner as he may prescribe, give notice to all judgments entered in actions instituted under the authority of this chapter.

*(Formerly: Acts 1971, P.L.199, SEC.1.)*

#### **IC 15-3-3.5-25**

##### **Detained pesticides; withdrawal from distribution; notification to dealer or restraint of stop sale order; approval of labels**

Sec. 25. (a) Except as provided in subsection (c), whenever any pesticide product is found by the state chemist upon any premises or in any means of conveyance where it is held for purposes of, or during or after, distribution or sale and there is reason to believe that the pesticide product is in violation of this chapter, or that the pesticide product has been or is intended to be distributed or sold in violation of this chapter, the state chemist may issue a written or printed stop sale, use, or removal order to the owner or custodian of the pesticide product, and after receipt of the order, the owner or custodian may not sell, use, or remove the pesticide product described in the order except in accordance with the provisions of the order or until the pesticide product is released in writing by the state chemist or by order of a proper court.

(b) When a stop sale order is issued under subsection (a), the state chemist shall immediately issue a notification to the dealer or registrant of the pesticide product that states the following:

- (1) A stop sale order has been issued on the pesticide product.
- (2) A reference to the specific language of the law or regulation that is believed to have been violated.

(c) Labels of pesticide devices may be submitted to the state chemist for approval before the sale of the pesticide device.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.18; P.L.140-1996, SEC.2.*

#### **IC 15-3-3.5-26**

##### **Detained pesticides; condemnation and confiscation**

Sec. 26. Any pesticide product that is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any court of competent jurisdiction in any county of the state where it may be found and seized for confiscation by process of libel for condemnation:

- (1) if it is adulterated or misbranded;
- (2) if it has not been registered under section 5 or 6 of this chapter;



- (3) if it fails to bear on its label the information required by this chapter;
- (4) if it is a white powder pesticide product and is not colored as required under this chapter; or
- (5) if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.19.*

#### **IC 15-3-3.5-27**

##### **Condemned pesticides; disposal**

Sec. 27. If the pesticide product is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court may direct and the proceeds, if the pesticide product is sold, less legal costs, shall be paid to the state chemist. The pesticide product may not be sold contrary to this chapter. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide product shall not be disposed of unlawfully, the court may direct that the pesticide product be delivered to the owner of the pesticide product for relabeling or reprocessing.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.20.*

#### **IC 15-3-3.5-28**

##### **Condemnation; costs**

Sec. 28. When a decree of condemnation is entered against the pesticide product, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide product.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.21.*

#### **IC 15-3-3.5-29**

##### **Exemptions; transporting**

Sec. 29. The penalties provided for violations of section 3 of this chapter shall not apply to:

- (1) any carrier while lawfully engaged in transporting a pesticide product within this state, if the carrier shall, upon request, permit the state chemist or the state chemist's designated agent to copy all records showing the transactions in and movement of the pesticide products; or
- (2) public officials of this state and the federal government engaged in the performance of their official duties.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.22.*

#### **IC 15-3-3.5-30**

##### **Exemptions; use**

Sec. 30. The penalties provided for violation of section 4(3) of

this chapter shall not apply to pesticides used in research by the United States Department of Agriculture, the United States Department of Interior, the Purdue University agricultural research programs, or other persons who are qualified researchers as approved by the board.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.23; P.L.40-1993, SEC.11.*

#### **IC 15-3-3.5-31**

##### **Exemption; export**

Sec. 31. A pesticide product is not in violation of this chapter when the product is intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not exported, this chapter shall apply.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.24.*

#### **IC 15-3-3.5-32**

##### **Registration fee; commercial fertilizers containing pesticides**

Sec. 32. (Exemption: Registration Fee) The registration fee provisions of Section 6 of this chapter apply to commercial fertilizers containing pesticides.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by Acts 1979, P.L.144, SEC.8.*

#### **IC 15-3-3.5-33**

##### **Handling and storage**

Sec. 33. A person may not handle, transport, store, display, or distribute pesticide products in a manner as to endanger man or the environment or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with the pesticide products.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.25.*

#### **IC 15-3-3.5-34**

##### **Disposal and storage**

Sec. 34. A person may not dispose of, discard, or store any pesticide products or pesticide containers in a manner that may cause injury to persons, plants, animals, wildlife, lands, or waters except the pests that pesticide products are intended to prevent, destroy, control, or mitigate.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.26.*

#### **IC 15-3-3.5-35**

##### **Delegation of duties**

Sec. 35. (Delegation of Duties) All authority vested in the state chemist by virtue of the provisions of this chapter may with like force and effect be executed by his authorized agent or agents.

*(Formerly: Acts 1971, P.L.199, SEC.1.)*

**IC 15-3-3.5-36**

**Cooperation**

Sec. 36. The state chemist may cooperate with, and enter into agreements with, any other agency of this state, any federal agency, and any other state or agency of another state for the purpose of carrying out this chapter and securing uniformity of rules.

*(Formerly: Acts 1971, P.L.199, SEC.1.) As amended by P.L.113-1990, SEC.27.*